

VFL Technology Corporation and Truckdrivers, Chauffeurs and Helpers, Local Union No. 100, affiliated with the International Brotherhood of Teamsters, AFL-CIO and International Union of Operating Engineers, Local 18, AFL-CIO and Laborers' International Union of North America, Laborers' Local Union No. 265, AFL-CIO, Petitioners. Cases 9-RC-16740, 9-RC-16743, and 9-RC-16745

September 30, 1999

DECISION ON REVIEW AND ORDER

BY CHAIRMAN TRUESDALE AND MEMBERS FOX,
LIEBMAN, HURTGEN, AND BRAME

On July 3, 1996, the Acting Regional Director for Region 9 issued a Decision and Direction of Election in the above-entitled matter in which she found that the contract between the Employer and the United Steelworkers of America (USWA)¹ did not bar the processing of the petitions filed by the Petitioners.² Pursuant to Section 102.67 of the National Labor Relations Board's Rules and Regulations, the Employer filed a timely request for review of the Acting Regional Director's decision. An election was held on July 31, 1996, and the ballots were impounded pending the Board's ruling on the request for review.

The Board grants the Employer's request for review as it raises substantial issues warranting review. Upon careful consideration of the entire record, we find, contrary to the Acting Regional Director, that the Employer and the USWA have a collective-bargaining agreement that constitutes a 9(a) contract sufficient to bar the instant petitions. We remand the case, however, to the Regional Director to reopen the record with respect to the effectiveness of the alleged disclaimer of interest by the USWA in representing the Employer's employees, specifically as to whether the petitions are barred by the current contract.

The relevant facts are as follows: the Employer loads and transports fly ash from the Zimmer Generating Plant in Moscow, Ohio, to landfill cells. On February 3, 1994, the Employer and the USWA signed a prehire collective-bargaining agreement covering all employees to be hired for road preparation and maintenance, effective by its terms from February 3, 1994, through March 6, 1997. The Employer had no employees at the time the contract was executed. On February 21, 1994, the Employer hired its work force, and thereafter commenced working at the Zimmer jobsite.

Thereafter, on March 11, 1994, the Employer also signed a recognition agreement with the USWA based on

a contemporaneous card check, which showed that a majority of the employees in the unit of all construction employees and truckdrivers employed by the Employer at the Zimmer facility had designated the USWA as their bargaining representative. The recognition agreement provided that the Employer would recognize the USWA as the representative of these employees, and that the parties would meet for the purposes of negotiating a mutually acceptable collective-bargaining agreement. It is uncontested that the Employer and USWA did not, in fact, negotiate a new agreement. However, the Employer continued to apply the terms of the prior contract, including paying employees the contractual wage rate and making health, welfare, and pension contributions; the Employer and the USWA continued to process grievances up through arbitration; and the Employer continued to obtain employees through the USWA's hiring hall. The Petitioners filed their petitions 2 years later, in May 1996.³

The Acting Regional Director found the record evidence conflicting and lacking in detail, and thus insufficient to enable her to determine whether the Employer was primarily engaged in the construction industry. She concluded, however, that processing the petitions was appropriate irrespective of the industry in which the Employer was engaged.⁴ If the Employer was not a construction industry employer, the prehire agreement with the USWA would not, under *General Extrusion*, 121 NLRB 1165 (1958), bar the petition.⁵ If the Employer was in the construction industry, the USWA's majority showing and the Employer's card check and recognition agreement created a 9(a) relationship, but because the Employer and the USWA did not subsequently execute a contract, and did not refer to their prehire agreement in the subsequent recognition agreement, there was no bar to processing the petitions.

As a threshold matter, the Employer claims that prior to the hearing, the parties stipulated to the 9(a) status of the contract, and agreed that the issues at the hearing would be limited to whether the USWA's disclaimer of

³ As discussed below, however, the Petitioners instituted art. XX proceedings before the AFL-CIO in September 1994.

⁴ We find it unnecessary to resolve the question of the Employer's status as a possible construction industry employer. As discussed below, such a determination does not affect our decision as to the contract bar issue under review, or our decision to remand this case to the Regional Director.

⁵ In *General Extrusion*, supra, the Board held that a contract executed before any employees have been hired will not bar a petition as outside the construction industry it is unlawful for an employer to enter into a contract with a nonmajority union. In the construction industry, however, Sec. 8(f) permits an employer and a union to enter into a collective-bargaining agreement when only a minority of employees has designated the union as its bargaining representative. Consequently, pursuant to Sec. 8(f), it is lawful for an employer and a union to enter into a prehire agreement before any employees have been hired. Hence, the doctrine set forth in *General Extrusion* is inapplicable in the construction industry.

¹ Although notified of the proceedings, USWA did not participate in the hearing, nor did it seek formal intervenor status.

² The Petitioners seek to represent separate units of craft employees at the Employer's Zimmer jobsite in Ohio.

interest was valid and whether the petitioned-for units were appropriate. The Employer argues, therefore, that the Acting Regional Director should not have broadened the scope of her decision and addressed the status of the contract. Contrary to the Employer, however, we find that the evidence does not establish the existence of a stipulation, binding upon all the parties, concerning the status of the contract or the scope of the hearing.⁶ Not all the parties participated in the prehearing conference, not all the parties agreed with the hearing officer during the hearing, and some of the parties were prepared to litigate these issues but were precluded from doing so by the hearing officer. Finally, both the Operating Engineers and the Employer raised the status of the contract in their posthearing briefs. Thus, neither the Acting Regional Director, nor the Board on review, is precluded from determining the status of the collective-bargaining agreement.

The Employer claims that it established a 9(a) relationship with the USWA when it recognized the Union based on a contemporaneous showing of majority support in the unit.⁷ They applied the terms of the collective-bargaining agreement to employees, e.g., adjusted grievances, applied contractual wages, and negotiated modifications to the contract, although there was no evidence that these modifications were ever reduced to writing. The Employer argues that it and the USWA need not “re-agree” in writing to their current collective-bargaining agreement in order for that agreement to bar the petitions.

It is clear that the prehire contract executed by the Employer and the USWA on February 3, 1994, would not, as of that date, have been a bar to the petitions.⁸

⁶ At the hearing, counsel for the Employer stated that during a telephone conference involving the Employer, USWA, the Teamsters, and the Operating Engineers, no one disputed, and it was agreed, that: (1) there was a collective-bargaining agreement reached; (2) subsequent to that there were cards submitted and counted; and (3) the Employer recognized USWA. The Teamsters’ representative stated that he was part of the prehearing conference and “could not recall specifically what was discussed.” Counsel for the Operating Engineers apparently refused to stipulate as to the status of the contract, excepted to the hearing officer’s ruling that she would not allow any testimony regarding the card check, and took the position that the collective-bargaining agreement was not Sec. 9(a) and that it had a right to litigate this issue. The hearing officer stated that since the recognition occurred more than 6 months prior to the filing of the petitions, the existence of a 9(a) relationship could not be challenged except in an unfair labor practice proceeding.

⁷ A 9(a) relationship/contract is based on a union being designated or selected by a majority of employees in an appropriate unit. A prehire contract, which otherwise would run afoul of the Act since it is not based on the majority status of the union, is specifically permitted in the building and construction industry by Sec. 8(f) of the Act.

⁸ Under *John Deklewa & Sons*, 282 NLRB 1375 (1987), *enfd.* sub nom. *Iron Workers Local 3 v. NLRB*, 843 F.2d 770 (3d Cir. 1988), cert. denied 488 U.S. 889 (1988), an 8(f) contract does not operate to bar a petition filed anytime during its term, and under *General Extrusion*, supra, a 9(a) contract will not operate as a bar to a petition if it was executed prior to the hire of any unit employees.

Subsequently, however, the Employer hired employees, a majority of whom executed authorization cards designating the USWA as their Section 9 representative. On March 11, 1994, the Employer voluntarily extended 9(a) recognition to the USWA, upon a card check revealing that a majority of its unit employees designated USWA as their exclusive bargaining representative.⁹ Thereafter, the Employer and the USWA continued to apply the pre-existing contract and, apparently, made some modifications to it.

Regardless of the nature of the Employer’s relationship (and its contract) with the USWA at its inception, the Employer and the Union thereafter created a relationship pursuant to 9(a). It follows, and we find, that the contract between the parties was from that point forward a 9(a) agreement.

We reject as inherently contradictory the view of the Regional Director and our dissenting colleague that even though the relationship between the Union and the Employer was converted from an 8(f) relationship to a 9(a) relationship by virtue of the Employer’s voluntary recognition of the Union as the majority representative of its employees, the agreement somehow remained an 8(f) agreement and therefore may not bar an election. An 8(f) agreement is, by definition, an agreement between an employer and a union that has not been certified or recognized as the majority representative, and it is precisely because of the union’s lack of majority status that the special rules governing 8(a) agreements—including the rule that an 8(f) contract will not bar an election—were devised.¹⁰ Thus, as the Board has previously explained, by allowing employees to obtain an election notwithstanding the existence of an 8(a) agreement, Congress sought to provide employees, whose views regarding union representation had never been ascertained, with “an escape hatch” to ensure that they would not be forced to accept representation which might be unwanted.¹¹ Where, as in this case, the union, after the agreement was entered into, was properly recognized as the 9(a) representative based on an affirmative showing of support from a majority of the employees covered by the agreement, the reasons for not giving the contract the full effect of a 9(a) contract simply do not exist. In particular, because the concern that employees have not been allowed to express their views and may not want the union to represent them is no longer present, the rationale for not treating the contract as a bar no longer applies.

That the Employer and the USWA did not enter into a new agreement or formally “re-adopt” the preexisting contract after recognition of the Union as the employees’

⁹ See generally *John Deklewa & Sons*, supra; *J & R Tile*, 291 NLRB 1034 (1988); *American Thoro-Clean*, 283 NLRB 1107 (1987).

¹⁰ *John Deklewa & Sons*, supra.

¹¹ *Id.* at 1381.

9(a) representative does not affect our analysis.¹² Contrary to the dissent, the Board has never held that there can be no contract bar in the construction industry unless an employer and a union either negotiate a new contract or expressly reaffirm their preexisting contract, simultaneous with or subsequent to the employer's extension of 9(a) recognition to the union.¹³ As we have stated, the key is the union's attainment of full 9(a) status as the employees' designated representative, at which point the normal contract-bar rules apply, regardless of whether the contract was initially entered into as an 8(a) agreement.¹⁴

Although we have found that the contract between the Employer and the USWA is a 9(a) agreement, that is not dispositive of the question of whether the petition should be processed. Under the Board's longstanding contract-bar principles, a 9(a) contract will bar any petition filed outside the window period of that contract. If, however, the USWA has effectively disclaimed interest in representing the Employer's employees, then such a disclaimer may remove the bar quality of the contract and processing the instant petitions could be appropriate.¹⁵ Or, if the USWA is acting in a manner inconsistent with its disclaimer sufficient to negate its effect, then the contract remains a bar and the petitions must be dismissed.¹⁶ Consequently, we are required to address the effectiveness of the USWA's alleged disclaimer of interest.

In September 1994, the Petitioners instituted a jurisdictional complaint pursuant to article XX of the AFL-CIO's constitution. An impartial umpire found that the USWA was in violation of the AFL-CIO's constitution and the Petitioners should be given an opportunity to

establish themselves as the representative of the Employer's employees. As a result, in November 1994, the USWA sent a letter to the Employer, advising the Employer that it could make no claim on the work being performed by the Employer. According to the Acting Regional Director, however, the USWA continued to represent the employees and continued to assert itself as their bargaining agent. She concluded that this disclaimer was ineffective and would not, standing alone, remove the contract as a bar.

Thereafter, the Teamsters filed a noncompliance complaint with the AFL-CIO. The USWA was instructed to comply with the umpire's decision. On April 3, 1996, the USWA again advised the Employer by letter that it was renouncing any intention to act as the employee's bargaining representative; that it would cease and desist from acting in any way as the employees' bargaining representative; and that it would not seek to be the employees' bargaining representative.

The Employer argues that the USWA has been acting in a manner inconsistent with its most recent disclaimer. The record reveals the following postdisclaimer conduct.¹⁷ The USWA has continued to process grievances filed prior to the disclaimer and may have initiated at least one grievance since. Further, the USWA contacted the Employer and requested payment of dues pursuant to the contractual arrangement, although the Acting Regional Director found some evidence that these payments had become due prior to the disclaimer. Also, the USWA provided the Employer with a list of potential employees who were available to begin work should the Employer implement a second shift.

The Acting Regional Director found that she was unable to determine, based on the record, whether the alleged inconsistent actions by the USWA nullified the effect of its later attempt to disclaim interest. She concluded that it would be necessary to reopen the record in order to determine whether the USWA's purported disclaimer of interest was effective.

Consequently, in view of the foregoing, we shall remand this case to the Regional Director to reopen the hearing and adduce evidence with respect to the effectiveness of USWA's alleged disclaimer, and its effect, if any, on the bar quality of the contract. Thereafter, the Regional Director shall issue a supplemental decision.

ORDER

The Acting Regional Director's Decision and Direction of Election is reversed with respect to her finding that the contract between the Employer and the USWA was not a 9(a) contract that could operate as a bar to the petitions. The case is remanded to the Regional Director with directions to reopen the hearing solely with respect to whether USWA's alleged disclaimer of interest is ef-

¹² Member Hurtgen also notes that after the Sec. 9 recognition, the parties continued to apply all of the terms of the February 3, 1994 contract. In his view, the plain inference is that they intended their Sec. 9 relationship to encompass their contract.

¹³ In the two cases cited by the dissent, *Island Construction Co.*, 135 NLRB 13 (1962), and *Golden West Electric*, 307 NLRB 1494 (1992), the employer did sign or reaffirm a contract after recognizing the union. However, the Board in recounting those facts was simply describing the factual setting in which recognition was extended and contracts were reached. In neither of these cases did the Board indicate that such concurrent signings or reaffirmations were required in order to establish that an extant contract would bar a petition, and we decline to adopt such a rule.

¹⁴ Our dissenting colleague makes much of a sentence in the recognition agreement in which the parties expressed an intention to engage in negotiations for a new agreement. However, there is no suggestion, and our colleague does not contend, that the Employer's voluntary recognition of the USWA as the employees' 9(a) representative was in any sense conditioned upon the parties' engaging in such negotiations. As stated above, the key in determining whether an agreement should be treated as a 9(a) agreement for contract bar purposes is whether the union that is party to the agreement has been certified or voluntarily recognized as a 9(a) majority representative. Since the validity of the Employer's recognition of the USWA is not in dispute, we regard the fact that the parties did not negotiate a new agreement as immaterial to the question of whether the agreement that remained in effect should bar the processing of the instant petition.

¹⁵ See, e.g., *American Sunroof Corp.*, 243 NLRB 1128 (1979).

¹⁶ See, e.g., *McClintock Market*, 244 NLRB 555 (1979).

¹⁷ Other than the USWA steward, no officials from the USWA testified at the hearing.

fective and, consequently, whether the petitions may be processed. The Regional Director shall thereafter issue a supplemental decision, and take further appropriate action.

MEMBER BRAME, dissenting.

Contrary to my colleagues, I agree with the Acting Regional Director's finding that, assuming that the Employer is primarily engaged in the construction industry, the prehire contract entered into by the Employer and the United Steelworkers of America (USWA) was not transformed into a Section 9 contract simply by the Employer's later recognition of the USWA as its employees' majority representative. Thus, as a prehire contract cannot serve as a contract bar,¹ I would find that, assuming the Employer is primarily engaged in the construction industry (an issue that my colleagues find unnecessary to resolve), the USWA's prehire contract with the Employer does not bar the Petitioners' election petitions.

Soon after being awarded fly ash removal work at the Zimmer Generating Station in Moscow, Ohio, the Employer, on February 3, 1994, signed a contract with the USWA, effective until March 6, 1997, covering all the Employer's employees engaged in road preparation and maintenance, loading of material in trucks, hauling on-site, dumping and placing of material and related functions at the Zimmer facility. The Employer subsequently hired a work force and, on February 21, 1994, commenced work at the Zimmer facility. On March 11, 1994, the Employer and the USWA signed a one-page agreement which, following a preamble, contained two numbered paragraphs. In paragraph 1, based on a card check showing that a majority of the Employer's construction employees and truckdrivers at the Zimmer project had selected the USWA as their collective-bargaining representative, the Employer agreed to recognize the USWA as the exclusive bargaining representative for a unit consisting of its construction employees and truckdrivers at that location. In paragraph 2, the parties agreed as follows:

Immediately following the date of the signing of the Agreement, the parties hereto shall meet regularly in joint conference for the purpose of negotiating a mutually acceptable collective bargaining agreement.

Despite the latter provision, the Employer and the USWA did not subsequently engage in contract negotiations but apparently continued to follow the terms of the prehire contract. Subsequently, the Petitioners filed election petitions in May 1996. At that time, more than 2 years after the prehire contract had been entered into, the

Employer asserted that its contract with the USWA barred the petitions.

In her decision following a hearing on the petitions, the Acting Regional Director was unable to determine from the record whether the Employer was primarily engaged in the construction industry. She nevertheless found that, regardless of whether the Employer was primarily engaged in the construction industry, the Employer's collective-bargaining agreement with the USWA did not bar the petitions. Noting that the contract that the Employer urged as a bar was a prehire contract, as it was entered into before the Employer commenced work on the Zimmer job and before it hired any unit employees, she found, assuming the Employer was not in the construction industry, that, under *General Extrusion Co.*, supra,² such a contract does not operate as a contract bar. She reasoned that an employer's hiring a work force after entering into a prehire contract would not convert the prehire contract into a contract that would bar a subsequent petition.

Assuming, alternatively, that the Employer was in the construction industry, the Acting Regional Director noted that, under *Brannan Sand & Gravel Co.*,³ a union that is a party to an 8(f)-prehire contract could become a 9(a) representative by independently establishing majority status through a Board election or a card check. She found that, in this case, the Employer's relationship with the USWA, which had its inception in an 8(f)-prehire contract, was converted to a 9(a) relationship through the parties' subsequent recognition agreement based on a card check demonstrating the USWA's majority status after the Employer had hired its work force. She further found that the Employer's 9(a) recognition of the USWA provided the USWA with an irrebutable presumption of majority status for a reasonable period of time, during which the Employer and the USWA were free to engage in contract negotiations without interference from rival unions. The Acting Regional Director observed, however, that the Employer and the USWA had failed to reach a contract or engage in any contract negotiations at all subsequent to their signing the recognition agreement. Moreover, the period during which the USWA enjoyed its irrebutable presumption of majority status had long since elapsed by the time the Petitioners filed their petitions. She further found that there was no evidence that the Employer and the USWA had adopted the prehire contract as a Section 9 contract. The Acting Regional Director thus concluded:

Although the Employer and the USWA could have within a reasonable time negotiated a contract under Section 9(a) of the Act, having failed to do so, the Employer cannot now rely on the prehire contract as a bar to an election in these cases. After the

¹ See *General Extrusion Co.*, 121 NLRB 1165, 1167 (1958). Regarding the construction industry, see second proviso of Sec. 8(f) of the Act; *James Julian, Inc.*, 310 NLRB 1247 (1993); *John Deklewa & Sons*, 282 NLRB 1375, 1377, 1382 fn. 27, and accompanying text, 1385 (1987), enf'd. sub nom. *Iron Workers Local 3 v. NLRB*, 843 F.2d 770 (3d Cir. 1988), cert. denied 488 U.S. 889 (1988).

² 121 NLRB 1165, 1167 (1958).

³ 289 NLRB 977 (1988).

Employer and the USWA established a 9(a) bargaining relationship, the prehire contract, assuming the Employer is in the construction industry, is no more a bar to the petitions here than it would have been if the Employer were not in the construction industry.

I fully agree with the Acting Regional Director that, assuming that the Employer is in the construction industry, its 8(f)-prehire contract with the USWA did not bar the Petitioners' petitions, and the Employer's entering into a 9(a) recognition agreement with the USWA failed to convert the prehire contract into a Section 9 contract that would constitute a contract bar.⁴ It is undisputed that the contract into which the Employer and the USWA entered on February 3, 1994, before the Employer had hired employees or commenced work at the Zimmer site, was a prehire contract. Additionally, it is well settled that, under the second proviso to Section 8(f), an 8(f)-prehire contract cannot bar an election petition.⁵ Thus, the Employer-USWA prehire contract alone could not bar the Petitioners' petitions.

Moreover, while, under *John Deklewa & Sons*,⁶ an 8(f) relationship can be converted to a 9(a) relationship when a union expressly demands, and an employer voluntarily grants, recognition to the union based on a contemporaneous showing of majority employee support for the union in an appropriate bargaining unit,⁷ the Board has found a collective-bargaining agreement in such circumstances to constitute a contract bar only where it was entered into—either by negotiating a new contract⁸ or by reaffirming a preexisting contract⁹—at the same time as or subsequent to the granting of 9(a) recognition. Thus, unless, simultaneous with or subsequent to the Employer's extension of 9(a) recognition to the USWA, the Employer and the USWA entered into a collective-bargaining agreement—either by negotiating a new contract or by reaffirming their prehire contract—there was no contract that could serve to bar the Petitioners' subsequent petitions.

⁴ I find it unnecessary to pass on the Acting Regional Director's finding that, if the Employer is not in the construction industry, the parties' recognition agreement would not render their prehire contract a Sec. 9 contract that could bar the Petitioners' petitions. Given that, in my view, there is no contract bar in this case if the Employer is in the construction industry, I cannot agree with my colleagues' finding that, regardless of whether or not the Employer is in the construction industry, the prehire contract was converted by the parties' recognition agreement to a Sec. 9 contract sufficient to bar the Petitioners' petitions.

⁵ See *James Julian, Inc.*, supra at fn. 1; and *John Deklewa & Sons*, supra at fn. 1.

⁶ Fn. 17, supra.

⁷ See *J & R Tile, Inc.*, 291 NLRB 1034, 1036 (1988).

⁸ See *Island Construction Co.*, 135 NLRB 13 (1962), cited in *Deklewa*, supra at 1387 fn. 53, as example of voluntary recognition based on a card check.

⁹ See, e.g., *Golden West Electric*, 307 NLRB 1494 (1992) (employer signed letter of assent along with recognition agreement). I refrain from passing on *Golden West Electric* in any other respect.

The Employer and the USWA did enter into what was found to be a valid 9(a) recognition agreement.¹⁰ They did not, however, simultaneously or subsequently enter into a new collective-bargaining agreement, either by negotiating a new contract or by reaffirming their prehire contract. Accordingly, all that is available for the Employer to assert as a contract bar is its prehire contract with the USWA that predates the 9(a) recognition agreement. As a prehire contract, it is, as a matter of law, insufficient to bar the Petitioners' petitions.¹¹

In this case, the Employer and the USWA did not merely refrain from mentioning their prehire contract at the time that they entered into the recognition agreement. Rather, their recognition agreement contained two affirmative provisions, one of which provided for the Employer's recognition of the USWA. The other affirmative provision stated:

Immediately following the date of the signing of the Agreement, the parties hereto shall meet regularly in joint conference for the purpose of negotiating a mutually acceptable collective bargaining agreement.

Thus, not only did the recognition agreement not adopt the prehire contract, it set forth the parties' agreement to negotiate a new collective-bargaining agreement. The recognition agreement thus revealed the intent of the parties to immediately formulate a new collective-bargaining agreement, *not* to adopt the prehire contract as their collective-bargaining agreement.

Contrary to my colleagues, my conclusion that the parties' prehire contract remained a prehire contract after the parties executed their subsequent recognition agreement is inescapable. My colleagues, disregarding the parties' clear intent, find that the 9(a) recognition somehow transformed the parties' extant prehire contract into a full Section 9 agreement. The question, however, is not whether the parties entered into a valid 9(a) recognition agreement; rather it is whether the parties intended their earlier agreement now to function as a contract that would bar petitions. By stating in the recognition agreement that "[i]mmediately following the date of the signing of the Agreement, the parties hereto shall meet regularly in joint conference for the purpose of negotiating a mutually acceptable collective-bargaining agreement," the parties conclusively answered this question in the negative. Thus, contrary to my colleagues, the fact that the parties contemplated contract bargaining immediately after recognition fatally undermines the supposed Section 9 status of their prehire contract.

Consequently, contrary to my colleagues, I find that, under these circumstances, where the recognition agree-

¹⁰ No party disputes the acting Regional Director's finding that the recognition agreement properly conferred 9(a) recognition under *Brannan Sand & Gravel Co.*, supra.

¹¹ See *James Julian, Inc.*, supra at fn. 1; and *John Deklewa & Sons*, supra at fn. 1.

ment clearly manifested the parties' intent not to adopt the prehire contract as their collective-bargaining agreement, the recognition agreement failed to convert that prehire contract into a Section 9 collective-bargaining agreement. Accordingly, both as a matter of law and on

the basis of the specific facts in this case, I agree with the Acting Regional Director that the 8(f)-prehire contract between the Employer and the USWA remained an 8(f) contract and, thus, could not bar the Petitioners' election petitions.